

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20056

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Replacement of Part 90 by Part 88 to Revise)
the Private Land Mobile Radio Services)
and Modify the Policies Governing Them)
)
and)
)
Examination of Exclusivity and Frequency)
Assignment Policies of the Private)
Land Mobile Radio Services)

PR Docket No. 92-235

PETITION FOR CLARIFICATION

Motorola hereby submits this Petition for Clarification of the FCC's *Memorandum Opinion and Order* in the above captioned proceeding.¹ In general, Motorola supports the FCC's decisions and, consistent with the requests contained herein, urges speedy resolution to this matter so that the process of refarming can begin providing benefits to the private land mobile user community.

Over the past six years of deliberations, it has become apparent that any refarming process is complicated by the vast diversity of the private land mobile user community. Decisions appropriate for large, sophisticated users deploying thousands of radios over a state-wide area are not necessarily ideal for the small business store owner using two walkie-talkies to maintain contact with the stock room. Balancing the needs of the diverse user segments has

¹ *Memorandum Opinion and Order*, PR Docket No. 92-235, adopted December 23, 1996, (62 Fed Reg 2027 (1997) [MO&O].

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required painstaking analysis to design a flexible regulatory approach that minimizes refarming's intrusiveness into the core business activities of the users yet maximizes their opportunities to deploy technologies more advanced and efficient than today's 25 kHz radios.

In this regard, Motorola supports the FCC's overarching policy of encouraging the deployment of new technologies through the equipment authorization process rather than simply requiring users to retire operational equipment. While Motorola believes that a sunset provision ultimately will be necessary to address the continued use of wideband 25 kHz FM equipment, we agree that the first phase of refarming should be promoted by the operational needs of existing and future users as opposed to inflexible government mandates. Thus, Motorola supports the FCC's adopted channeling plans for both the VHF and UHF frequency bands and the transition dates for the introduction of 12.5 kHz and 6.25 kHz technologies.

Motorola seeks clarification of the *MO&O* in only one area. When rejecting arguments calling for the adoption of channeling plans based on 5 kHz channel centers in contrast to the 6.25/7.5 kHz plans adopted in the *Refarming Report and Order*,² the FCC correctly notes that its decision creates "a flexible migration path" for existing users but further states:³

However, we are mindful of the fact that some users may want to implement 5 kHz technology within their existing 25 kHz bandwidth. Such a channelization, however, would require the licensee to deviate from the adopted band plan. Therefore, we will permit frequency coordinators to recommend frequencies inconsistent with the adopted band plan, for any technology, including 5 kHz, provided that such a system will not cause harmful interference to any existing system.

² *Report and Order and Further Notice of Proposed Rule Making*, PR Docket No. 92-235, 10 FCC Rcd 10076 (1995) [*Refarming Report and Order*].

³ *MO&O* at ¶11.

In the section quoted directly above, the Commission is addressing the ability of a licensee to replace an existing wideband 25 kHz system providing a single voice path with five, 5 kHz transmitters providing 5 distinct voice paths within the same 25 kHz bandwidth. Although inconsistent with the adopted channeling plan because it would require the licensing of non-conforming channel centers, such a configuration probably would not increase interference to other users and would result in more efficient use of the land mobile spectrum. Thus, according to this articulated policy, the FCC would provide the coordinators with the flexibility to recommend such use regardless of its incompatibility with the proscribed channel centers.

Motorola supports this additional flexibility. Permitting the operation described above is in the public interest because it would 1) increase the efficient use of the spectrum and 2) further the FCC's policy of ensuring that the refarming rules are technology neutral.⁴ These benefits assume, of course, that there is no increase in interference to other users. To deny users this flexibility could result in the unnecessarily long term deployment of wideband 25 kHz equipment contrary to the goals of refarming.

In some cases, however, implementing this flexibility for "any technology" as promised by the Commission would appear to be unintentionally constrained by other FCC regulations. For example, a user wishing to replace a single 25 kHz radio with two 12.5 kHz

⁴ In adopting its 6.25 kHz channeling plan for UHF bands, the FCC noted that "This decision recognizes the operational requirements of a large, diverse community of users and provides a plan that enables the PLMR community to substantially increase the spectrum efficiency of these bands. This approach is consistent with the User Coalition Plan and includes the following benefits: better data transfer capabilities and lower equipment costs than our proposed plan, and technical neutrality -- allowing for 5, 6.25, 12.5 or 25 kHz equipment." *Refarming Report and Order* at ¶29

radios within its existing bandwidth would need to place the two new transmitters on frequencies ± 6.25 kHz from its existing authorized channel center. This would place the new 12.5 kHz transmitters on frequencies consistent with the FCC's assignment plan but, according to the *Refarming Report and Order*, new channels that are 6.25 kHz removed from the existing channel center are limited to an authorized bandwidth of 6.0 kHz.⁵ Thus, incumbent users of 25 kHz wide equipment seeking to deploy more efficient 12.5 kHz systems may find unintentional conflicts in the rules.

Motorola asks that the FCC clarify this tension in its refarming rules to achieve consistency with the policies of technology neutrality and encouragement of a voluntary migration from the existing 25 kHz equipment to more efficient technologies. The reasons for allowing the deployment of five 5 kHz emitters in an existing 25 kHz bandwidth equally apply to the deployment of two 12.5 kHz transmitters. That is, existing licensees would be increasing operational and spectrum efficiency and other users would not receive any increase in interference by existing users that choose to replace existing 25 kHz equipment.⁶ Further, such a policy would maintain the FCC's desired concept of technology neutrality and not disadvantage 12.5 kHz technologies *vis a vis* other permitted radio systems.

⁵ *Refarming Report and Order* at ¶27.

⁶ Motorola believes that users should be able to provide a simple showing to the coordinators demonstrating that the deployment of two 12.5 kHz emitters or five 5 kHz emitters or any other combination, does not result in more harmful out-of-band emissions outside of the 25 kHz bandwidth "window" than those that occur from a single 25 kHz emitter.

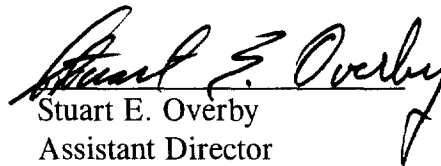
In conclusion, Motorola reiterates its support for the refarming decisions and urges the FCC to continue on pace to implement this ambitious project consistent with the clarifications noted herein.

Respectfully Submitted,

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